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## UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

In Re: Toyota Motor Corp. Unintended  
Acceleration Marketing, Sales Practices,  
and Products Liability Litigation

Case No: 8 10 ML2151 JVS (FMOx)

APPLICATION OF MARK J.  
GERAGOS FOR APPOINTMENT  
PURSUANT TO ORDER NO. 1:  
INITIAL CONFERENCE

This Document Relates to: ALL CASES

Date: May 13, 2010  
Time: 9:00 a.m.  
Place: Courtroom No. 10C

## INTRODUCTION

Pursuant to the Court's April 14, 2010 Order No. 1: Initial Conference and  
the Court's April 19, 2010 Order Re Clarifying the Scope of Applications, Mark J.  
Geragos of the law firm Geragos & Geragos hereby respectfully applies for  
appointment in a leadership position as deemed appropriate by the Court, or  
alternatively, for appointment as a member of the core discovery committee or a

By: /s/  
MARK J. GERAGOS  
Attorney for Plaintiffs

**APPLICATION OF MARK J. GERAGOS**

At the outset I would like to say that the legal talent of the lawyers applying for leadership in this matter is truly the most impressive assembly I have ever seen. It humbles me to read my colleagues' pedigrees and to submit my own application alongside theirs.

I have had the good fortune to represent some of the most prominent figures in the world and am considered by some to be one of the leading trial attorneys in the United States today. I have been lead counsel in over three hundred (300) jury trials ranging from the successful defense of murder cases to civil victories in class action and complex trade secret matters. But it is more than my legal experience which makes me an enormous asset to the plaintiffs in this litigation. As explained below, the depth and breadth of my practice, which includes criminal defense, complex federal and state civil litigation, and media expertise provides a unique and necessary component to the successful prosecution of the plaintiffs' claims in this matter.

In reviewing the submitted applications for appointment by some of the most talented and experienced lawyers in multidistrict litigation ("MDL"), I would submit that there are additional components unique to this particular MDL, including the media component, both on a national and international level, and the criminal component, not just in the event that a RICO claim is pursued against Toyota but given that there are presently multiple criminal investigations in connection with the subject matter of this litigation. My firm possesses the unique set of skills including a criminal and media background in addition to complex civil litigation experience to best serve the plaintiffs in this particular MDL.

As this Court knows, this MDL, which may well be the largest consumer-fraud case of all time, has attracted and will continue to attract an enormous amount of publicity. Therefore, in addition to the extensive legal work which will be required in this case, plaintiffs will also need to be well equipped to manage and

1 respond to the media frenzy surrounding this case and to Toyota's aggressive  
2 public relations, crisis management, and publicity campaigns.

3       Aside from my general experience in regularly dealing with high-profile  
4 cases attracting both national and international media attention, I also have specific  
5 experience in dealing with the Japanese media. Less than two years ago, I  
6 represented Kazuyoshi Miura in the *People of the State of California v. Miura* in a  
7 case which was an absolute Japanese media obsession, and often referred to as the  
8 Japanese equivalent of the O.J. Simpson case.<sup>1</sup> While the leadership in this MDL  
9 is and will undoubtedly be comprised of a highly qualified and experienced team  
10 of civil practitioners, I believe that my comprehensive background in criminal law,  
11 and particularly, high-profile criminal cases, in addition to my experience in  
12 complex civil litigation, make me invaluable to plaintiffs in this case and warrant  
13 my inclusion in the leadership group.

14       I support the proposed lead counsel positions set forth in the interim  
15 designees' Preliminary Joint Report and their applications for permanent  
16 appointment. Specifically, I support the appointment of Steve W. Berman, Marc  
17 M. Seltzer, and Wiley Aitken as Co-Lead Counsel to chair a Lead Counsel  
18 Committee for the economic loss cases. I also support the appointment of  
19 Elizabeth J. Cabraser and Mark P. Robinson Jr. as Co-Lead Liaison Counsel to  
20 chair a Liaison Counsel Committee for the personal injury and wrongful death  
21 cases.

22       I respectfully request that I be appointed to a leadership position as deemed  
23 appropriate by the Court. In the alternative, I request that I be appointed to a core  
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25       <sup>1</sup> See, e.g., *Kazuyoshi Miura Case: Major Players and Case Timeline*, Trials and  
26 Tribulations (Mar. 27, 2008) available at <http://sprocket-trials.blogspot.com/2008/03/kazuyoshi-miura-case-major-players-case.html> (describing Miura case as "way  
27 bigger" in Japan than the O.J. Simpson case was here).  
28

1 discovery committee or specialized committee for discovery, foreign discovery, or  
2 class certification, within the proposed leadership structure outlined by the Court's  
3 interim designees. As described below, I have the requisite criteria identified by  
4 the Court for appointment to any of these positions in this MDL.

5  
6 **1. Knowledge and Experience in Prosecuting Complex Litigation**

7 **a. Federal court background**

8 Jumping straight into private practice with my father, Paul J. Geragos, I was  
9 sent to handle a matter in the United States District Court for the Central District of  
10 California on the very first day I began practicing law. Federal court is thus not  
11 foreign to me, or to my firm. I have tried to verdict eight federal cases<sup>2</sup> before then  
12 Judge and now Justice of the Ninth Circuit, Paez, Judges Takasugi and Baird in the  
13 Central District of California, Judge Burns in the Southern District of California,  
14 and Judge Kauffman in the Eastern District of Pennsylvania. Within the last year  
15 my firm has also tried civil cases before Judges Snyder and Stotler in the Central  
16 District of California.

17 One of the most renowned federal cases that I tried and which drew national  
18 media attention, was the representation and successful acquittal of Whitewater  
19 figure and former business partner of President Clinton, Susan McDougal, on  
20 charges of contempt and obstruction of justice. *United States v. McDougal*,  
21 USDC, Eastern District, Arkansas, LR-CR-98-82. This case came on the heels of a  
22 fifteen-count acquittal I obtained for Ms. McDougal in *People of the State of*  
23 *California v. McDougal*, which was tried in Los Angeles Superior Court before  
24 Judge Les Light.

25 More recently, I, along with John R. Climaco, challenged the Ohio Elections  
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27 <sup>2</sup> In state court, I have tried more than hundreds of cases to verdict, including  
28 complex white collar cases.

Commission for attempting to curtail congressional candidate David Krikorian's speech about the incumbent Congresswoman in the election for United States Representative from the Second Congressional District of the State of Ohio. *Krikorian v. Ohio Elections Commission*, USDC, Southern District, Ohio, Case Number 1:10 CV 00103, Chief Judge Susan J. Dlott. I successfully represented Judge Pat Gray in a similar First Amendment case in *Gray v. Hanlon*, USDC Case Number 01-1829- ABC (Cwx).

**b. Complex litigation/class action background**

As an active and committed member of the Armenian community, starting in 2001, I commenced my class action career fighting on behalf of Armenian families and organizations to assert what many thought to be long lost claims arising out of the Armenian Genocide. Along with committed and experienced co-counsel, I prosecuted the following four class action lawsuits, and I continue to prepare others, for payment on insurance policies and recovery of bank deposits and land confiscated from Armenians prior to World War I:

*Marootian, et al. v. New York Life Insurance,*

USDC Case No. CV 99-12073 CAS (Mcx);

*Kyurkjian, et al. v. Axa, S.A., a French Corporation,*

USDC Case No. CV 02-01750 CAS (Mcx);

*Movsesian, et al. v. Victoria Versicherung, A.G., a German Corporation,*

USDC Case No. CV 03-9407 CAS (Mcx);

*Deirmenjian, et al. v. Deutsche Bank, A.G.,*

USDC Case No. CV 06-00774 MMM (RCx).

These cases presented plaintiffs with a multitude of legal challenges of both a procedural and substantive nature, including jurisdictional issues related to some of the international companies, preclusion under the foreign affairs doctrine, and affirmative challenges based on the statute of limitations. The cases were met by many, and in particular the national and international defendant corporations, with

1 skepticism of how claims ninety years old could succeed. Through tireless efforts  
2 and extraordinary legal work, the initial two cases resulted in highly successful  
3 settlements totaling nearly 40 million dollars for Genocide family survivors and  
4 charitable organizations throughout the world. The settlement of these cases were  
5 groundbreaking in that they represent the oldest resolved cases in U.S. history and  
6 are the first recorded cases addressing issues involving the Armenian Genocide.  
7 The last two cases listed above are still pending.

8 My class action background has come to include cases involving various  
9 types of corporate misconduct.

10 My firm represented spouses in wrongful death cases and seriously injured  
11 plaintiffs in the recently settled cases of *In Re Vioxx: Products Liability Litigation*,  
12 MDL No. 1657 and *In Re Bextra and Celebrex Marketing Sales Practices and*  
13 *Product Liability Litigation*, M:05-CV-01699-CRB, MDL No. 1699.

14 My firm currently serves as co-lead counsel on behalf of the class against  
15 AT&T, as well as several individual plaintiffs, in the well-known *In Re Pellicano*  
16 case, Los Angeles Superior Court Case Number BC 316318. The related cases  
17 involve multiple lawsuits against former private investigator Anthony Pellicano,  
18 prominent attorneys, entertainment figures, former law enforcement officers, and  
19 AT&T employees for having engaged in illegal wiretapping of private  
20 conversations, primarily of individuals involved in pending family law litigation.

21 My firm has also recently undertaken the representation of victims of  
22 attorney Joel Bander's fraud in mortgage litigation in the pending class action,  
23 *Hakobyan v. Bander Law Firm*, Los Angeles Superior Court Case Number  
24 BC429310, before Judge William F. Highberger.

25 **c. Corporate misconduct background**

26 My firm has pursued numerous large corporate entities in a variety of cases  
27 claiming malfeasance, including cases against Ford Motor Company,  
28 Bridgestone/Firestone, Medtronic, Inc., Pfizer, Inc., CIGNA Healthcare, Inc.,

1 Bank of America, N.A., NASCAR, Inc., Amtrak, Burlington Northern Santa Fe  
2 Corporation, Aladdin Hotel & Casino of Las Vegas, and Bernini Clothing, Inc.

3 In 2008, I represented a non-profit organization against pharmaceutical giant  
4 Pfizer, Inc. for trade secret misappropriation and related claims. The jury's verdict  
5 of over \$58 million dollars was named one of the top ten jury verdicts in California  
6 by The Daily Journal and one of the top 100 jury verdicts in the United States by  
7 The National Law Journal. *Ischemia Research and Education Foundation v.*  
8 *Pfizer, Inc.*, Superior Court of Santa Clara, Case Number 1-04-CV 026653.

9 Cases involving automotive malfunction have also been a part of my firm's  
10 practice for years. In 2008, I successfully settled a multi-injury and wrongful death  
11 Ford rollover case in *Eng v. Ford Motor Company*, Superior Court of Washington,  
12 Case Number 06-2-07541-1 (confidential settlement). My firm also pursued  
13 Bridgestone/Firestone North America Tire in a products liability action arising out  
14 of the tire blowout problem experienced by many drivers, including our seriously  
15 injured plaintiff. *Samsonyan v. Bridgestone*, Los Angeles Superior Court Case  
16 Number BC 318516.

17 **d. Extensive experience with foreign discovery**

18 The national and international aspects of my firm's practice have caused our  
19 attorneys, including myself, to conduct discovery, investigation, and depositions  
20 throughout the United States and the world, including Armenia, France, Germany,  
21 Mexico, Moldova, Romania, and the United Kingdom. For example, in the  
22 Armenian Genocide class actions discussed above, my team devoted countless  
23 hours reviewing thousands of pages of discovery at defendant banks' offices in  
24 Germany, which documents were in large part in German or French and dated back  
25 almost a hundred years.

26 My extensive experience with discovery has also included a federal case  
27 involving bribery of a public official which I singlehandedly tried against four  
28 Assistant United States Attorneys in the matter of the *United States of America v.*



1 *Wilkes*, in which case the Government provided to us, and my team reviewed, over  
2 290,000 pages of Bates-stamped discovery in the weeks leading up to trial.

3 **e. Personal background**

4 While born and raised in Southern California, I ventured to the east coast to  
5 obtain by Bachelor's degree from Haverford College in Philadelphia. I returned  
6 home to California where I graduated from Loyola Law School in 1982 and was  
7 admitted in June of 1983. I immediately began private practice with my father and  
8 am now the principal of Geragos & Geragos, APC. I am admitted to practice in all  
9 the district courts of California, and in the United States District Courts for  
10 Arizona, Arkansas, the Northern District of Texas, and the Northern District of  
11 Ohio. I am also admitted to the United States Court of Appeals for the Fourth,  
12 Ninth and Eleventh Circuits.

13 I was awarded the prestigious California Lawyer of the Year award in Civil  
14 Litigation in 2006 for my work involving the Armenian class action lawsuits  
15 mentioned above. Previously, I have been named "Trial Lawyer of The Year" by  
16 the Los Angeles Criminal Courts Bar Association, making me one of only two  
17 lawyers ever named Lawyer of the Year in both the criminal and civil arenas.  
18 California Law Business Magazine has named me as "one of the 100 Most  
19 Influential Attorneys in California" three years in a row and I have repeatedly been  
20 voted by my peers every year as one of Los Angeles' SuperLawyers. I am listed in  
21 Martindale Hubbell's registry of AV Preeminent Lawyers in the United States.

22  
23 **2. Willingness and Ability to Commit to Time-Consuming Process**

24 My extraordinary commitment to the legal community has been proven over  
25 and over again by my passion, hard work, dedication, and resulting success over  
26 the course of my 27 year legal career. On a regular basis, I am a guest speaker at  
27 seminars, symposiums, bar association meetings, and law schools throughout the  
28 country and have published numerous articles and other publications on a variety

1 of legal topics.

2 The other lawyers at my firm are equally dedicated to the practice of law,  
3 and they are more than willing and able to commit to this case. One of the firm's  
4 senior lawyers, Shelley Kaufman, has been practicing civil law since 1981 and has  
5 successfully tried numerous federal and superior court cases, repeatedly obtaining  
6 verdicts in excess of a million dollars for individual plaintiffs. Ms. Kaufman has  
7 been devoted to the Armenian Genocide class action cases and is one of the main  
8 attorneys handling the *In Re Pellicano* cases. Eugene Harris is another senior  
9 attorney who is also an experienced and dedicated trial lawyer. Although Mr.  
10 Harris was initially exclusively trying criminal cases, within the last three years, he  
11 has successfully tried eight civil jury trials, repeatedly obtaining awards in excess  
12 of one million dollars for individual plaintiffs. Junior associates, Tamar Arminak  
13 and Tina Glandian, will also be assigned to the Toyota cases. These young lawyers  
14 have devoted themselves to the firm's active practice and have demonstrated  
15 abilities far beyond their years of practice.

### 17 **3. Ability to Work Cooperatively with Others**

18 Working with other skilled attorneys has been one of the rewarding  
19 experiences in handling civil class action cases. I am honored to have closely  
20 collaborated with the prominent lawyer, John R. Climaco of Climaco, Wilcox,  
21 Peca, Tarantino & Garofoli Co., L.P.A. for more than ten years. As a result of my  
22 relationship with John R. Climaco, I have also worked closely with Stanley M.  
23 Chesley. I welcome working with esteemed lawyers across the nation and utilizing  
24 our joint talents to succeed with this case.

25 In collaboration with John R. Climaco, Hunter Shkolnik, Richard Arsenault  
26 and John Whaley, my firm has filed the following actions:

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28 02/04/2010 *Ani Gazaryan v. Toyota*, Case No. 10-CV-00849;

1 USDC-Central District of California, Western Division

2  
3 02/04/10 *Troy Menssen v. Toyota*; Case No. 1:10-CV-00260-SO;

4 USDC-Northern District of Ohio, Eastern Division

5  
6 02/04/10 *Thomas Davis v. Toyota*, Case No. 10-CV-0900

7 USDC Southern District of New York

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9 02/10/10 *Walter McKinney v. Toyota*, LASC Case No. BC431686,  
10 removed 3/12/10 to USDC, Central District California,  
11 Case No. 10-CV-01825;

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13 02/10/2010 *Nellie Yaritchyan v. Toyota*, LASC BC431688  
14 removed 3/12/10 to USDC, Central District California  
15 Case No. 10-CV-01822;

16  
17 02/10/10 *Robyn Horn v. Toyota*, Case No. 4:10-CV-0090-JLH,  
18 USDC-Eastern District of Arkansas.

19  
20 I believe that the plaintiffs' lawyers in this MDL would welcome the  
21 opportunity to work with and collaborate with my team as well. At the recent  
22 HarrisMartin Toyota Recall Litigation Conference chaired by Elizabeth J.  
23 Cabraser, Richard J. Arsenault, and Jimmy R. Faircloth Jr. in San Diego, which  
24 attracted several hundred plaintiff and defense attorneys, I was invited to be the  
25 featured keynote speaker, and asked to speak on the topic, "The Tort System's  
26 Regulatory Role—How Will It Work With the Toyota Litigation?" My speech was  
27 later jokingly described as "part Kumbayah-session" because of my emphasis  
28 during my speech on the importance of collaboration, not competition, among the

1 plaintiffs' lawyers in this MDL.<sup>3</sup>

2 I was also recently selected by the Steering Committee to be co-chair of the  
3 trial committee for the multidistrict litigation case, *In Re Apple iPhone 3G and*  
4 *3GS, Marketing Sales Practices Litigation*, MDL No. 2116, pending before Judge  
5 Barbier in the United States District Court, Eastern District of Louisiana.

6  
7 **4. Access to Sufficient Resources to Prosecute the Litigation in a**  
8 **Timely Manner**

9 With two offices within Los Angeles county, and as co-owner of the Historic  
10 Engine No. 28 building and Fine Arts Building (Los Angeles Historic-Cultural  
11 Monument #125), I have the financial resources necessary to support this litigation.  
12 As I have done in the past in the Armenian Genocide class actions as well as many  
13 others, my firm will advance significant costs as necessary to ensure the successful  
14 litigation of this case.

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27 <sup>3</sup> See Dionne Searcey, *In Battle of Toyota Lawyers, It's Mark v. Mark v. Mark*,  
28 The Wall Street Journal Blogs (Mar. 25, 2010) available at <http://blogs.wsj.com/law/2010/03/25/in-battle-of-toyota-lawyers-its-mark-v-mark-v-mark/tab/article>.

**CONCLUSION**

In conclusion, I respectfully request that the Court consider and affirm my application to be included in the leadership group, as deemed appropriate by the Court, or alternatively, as a member of a designated committee based upon the unique background, experience, and dedication that I can offer to this team.

Dated: April 30, 2010

Respectfully submitted,

GERAGOS & GERAGOS, APC

By: \_\_\_\_\_/s/

MARK J. GERAGOS  
Attorney for Plaintiffs